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APPENDIX A

United States Court of Appeals for the Ninth Circuit

No. 02-56782
D.C. No. CV-02-04783-JFW

CALVERT TURLEY; DELORES TURLEY; JOSEPH WHANN; NANCY WHANN; GREGORY GATES; DEBORAH GATES; ROBERT THWEATT,

Plaintiffs-Appellants,

v.

DANIEL EDDY, JR., an individual in his official capacity of Chairman of the Tribal Council for the Colorado River Indian Tribes; RUSSELL WELSH, an individual in his official capacity of Vice-Chairman of the Colorado River Indian Tribes; SONIA STONE, an individual in her official capacity as Council Member for the Colorado River Indian Tribes; HERMAN "TJ" LAFFOON, an individual in his official capacity as Council Member for the Colorado River Indian Tribes; SONIA CHAVEZ, an individual in her official capacity as Council Member for the Colorado River Indian Tribes; DOREEN WELSH, an individual in her official capacity as Council Member for the Colorado River Indian Tribes; VALERIE WELSH-TAHBO, an individual in her official capacity as Council Member for the Colorado River Indian Tribes; DENNIS PATCH, an individual in his official capacity as Council Member for the Colorado River Indian Tribes; CRAIG CHUTE, an individual,

Defendants-Appellees.

Appeal from the United States District Court
for the Central District of California

John F. Walter, District Judge, Presiding

Submitted July 8, 2003**
Pasadena, California

Before: SILVERMAN, W. FLETCHER, and RAWLINSON, Circuit Judges.

MEMORANDUM

The plaintiffs sued individual officers of the Colorado River Indian Tribes ("CRIT") for evicting them from land known as the Western Boundary. Rule19 requires that a case be dismissed if a necessary and indispensable party cannot be joined. CRIT is a necessary party because it claims an interest in the land and its interest would be impaired by the plaintiffs' suit. Fed. R. Civ. P. 19(a). CRIT cannot be joined because it has tribal sovereign immunity. CRIT is indispensable because a judgment rendered in its absence would be prejudicial to CRIT, there is no form of relief to lessen the prejudice, and the plaintiffs could not obtain an adequate remedy in its absence. Fed. R. Civ. P. 19(b). The plaintiffs may have difficulty obtaining relief if the case is dismissed, but when tribal sovereign immunity is at stake, that factor has little weight. See American Greyhound Racing, Inc. v Hull, 305 F.3d 1015, 1025 (9th Cir. 2002).

Because Indian trust lands are at stake, the United States is also a necessary and indispensable party. See Imperial Granite Co. v. Pala Band of Mission Indians, 940 F.2d 1269, 1272 n.4 (9th Cir. 1991); Carlson v. Tulalip Tribes of Washington, 510 F.2d 1337, 1339 (9th Cir. 1975).

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

The plaintiffs argue that CRIT's reservation does not include the Western Boundary lands, that CRIT has no legally protected interest in the lands, and that CRIT therefore is not a necessary and indispensable party. Along the same lines, the plaintiffs argue that the Western Boundary lands are not Indian trust lands, and that the United States is not a necessary and indispensable party. In this respect, the plaintiffs are simply asserting what they seek to prove in their suit. A plaintiff cannot avoid the requirements of Rule 19 merely be asserting that a party has no legally protected interest. Such circular arguments are unavailing. See American Greyhound, 305 F.3d at 1024; Shermoen v. United States, 982 F.2d 1312, 1317 (9th Cir. 1992).

Of course, we would not find CRIT to be a necessary and indispensable party if it made only a "patently frivolous" claim of interest in the Western Boundary lands. Shermoen, 982 F.2d at 1318. But, at a minimum, it is clear that there is a legitimate dispute about the boundaries of CRIT's reservation, and that CRIT has a legitimate, non-frivolous claim of interest in the Western Boundary lands. See Arizona v. California, 460 U.S. 605, 629-31 (1983); Arizona v. California, 530 U.S. 392, 418-19 (2000). Consequently, the district court properly dismissed the case.

AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 02-4783-JFW (RCx) Dated: October 4, 2002

Title: CALVERT TURLEY, et al. v DANIEL EDDY, JR., et al.

PRESENT: HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

K. Leigh Ray	None Present
Courtroom Deputy	Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

None Present

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

PROCEEDINGS (IN CHAMBERS):

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT (filed 3/26/02.)

Defendant's Motion to Dismiss Plaintiffs' Complaint ("Motion") came on regularly for hearing on September 23, 3002. After hearing oral argument on Defendants' Motion, the Court took the matter under submission.

After considering the moving, opposition and reply papers, and the oral argument of all parties, the Court Orders as follows:

1. Statement of Facts.

Plaintiffs' action challenges the sovereign authority of the Colorado River Indian Tribes ("CRIT" or "Tribe") over a portion of land that lies within the Western Boundary lands along the western side of the Colorado River within the State of California ("West Bank Lands").

Plaintiffs Calvert Turley, Delores Turley, Joseph Whann, Nancy Whann, Gregory Gates, Deborah Gates and Robert Thweatt ("Plaintiffs") were all residents of developments located on West Bank Lands pursuant to use permits issued by the Tribe. Complaint ¶¶ 3-10. In late 2001, the Tribe terminated the use permits under which the developments operated and gave all tenants, including Plaintiffs, notice to vacate the premises. Complaint ¶¶39, 45.

Defendants are Daniel Eddy, Jr., Chairman of the CRIT Tribal Council, Russell Welsh, Vice-Chairman of the CRIT Tribal Council, Sonia Stone[1], Secretary of the Tribal Council, Dennis Patch, Herman Laffoon, Doreen Welsh and Valerie Welsh-Tahbo, all members of the Tribal Council and Craig Chute, a non-member sued in his capacity as a representative of the Tribe. Complaint ¶¶11-18.

Plaintiffs' primary contention is that the West Bank Lands are not part of the CRIT reservation and therefore, Defendants have no authority to evict Plaintiffs from the West

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[1] Plaintiffs named eight Tribe members, but because Plaintiffs named Sonia Stone twice, in her present and former name, there are only seven Tribe member Defendants. *See* Defendants' Memorandum of Points and Authorities ("Motion") 9:19-21.

Bank Lands. By contrast, Defendants' content that the West Bank Lands are, and for over thirty years have been, part of the CRIT reservation, held by the United States in trust for the Tribe, and therefore Defendants have the right to terminate Plaintiffs' use permits and evict Plaintiffs from the West Bank Lands.[2]

The dispositive issue presented by Defendants' Motion is whether Plaintiffs have failed to name the Tribe and the United States as necessary and indispensable parties. If one or both of these parties must, but cannot be joined, then the action must be dismissed.

Plaintiffs content that joinder of the Tribe and United States is not an issue. Plaintiffs assume that the West Bank Lands are not Tribal land, and base their claims for relief on this assumption. From this fundamentally flawed premise, Plaintiffs then argue that the Tribe is not a necessary party because Tribal land is not at issue.[3] Despite Plaintiffs' contention, the core dispute raised by Plaintiffs' Complaint concerns the boundaries of the CRIT reservation.

2. Legal Standard.

Federal Rule of Civil Procedure 19 sets forth the framework for determining whether a party is a necessary and

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[2] At oral argument Plaintiffs' counsel conceded that Plaintiffs are holdover tenants and have no right to possess or occupy the West Bank Land developments. As holdover tenants, Plaintiffs' acknowledge that they can be lawfully evicted from the West Bank Lands, but they argue that only the owners of the land – the United States, and not the Tribe, can evict them.

[3] Plaintiffs also claim that the United States is not a necessary party to this action because determination of this action will not impact the United States' ownership of the West Bank Lands. For the reasons discussed herein, Plaintiffs are wrong.

indispensable party such that the action may not proceed in the party's absence. The analysis under Rule 19 is a two step process. The Court must first determine whether the non-party is "necessary" to the lawsuit. Shermoen v. United States, 982 F.2d 1312, 1317 (9th Cir. 1992), cert. denied, 509 U.S. 903 (1993). If the non-party is a "necessary" party, but the non-party cannot be joined, then the Court must determine whether the non-party is an "indispensable" party such that the suit should be dismissed." Id.

A. Necessary Party Test.

Federal Rule of Civil Procedure 19(a) sets forth two tests, either of which may be used to determine whether a non-party is a "necessary party":

(1) if in the non-party's absence complete relief cannot be accorded among the present parties. Fed. R. Civ. P. 19(a)(1). See American Greyhound Racing, Inc. v. Hull, 2002 WL 31085603 at *4-5 (9th Cir. 2002); Dawavendewa v. Salt River Project Agricultural Improvement and Power District, 276 F.3d 1150, 1155 (9th Cir. 2001); Shermoen, 982 F.2d at 1317; or

(2) if the non-party claims a legally protected interest in the action such that the disposition of the action in the non-party's absence may (i) as a practical matter, impair or impede the non-party's ability to protect that interest or (ii) expose the current parties to a risk of incurring multiple or inconsistent obligations by reason of the claimed interest. Fed. R. Civ. P. 19(a)(2)(i) and (ii). See American Greyhound, 2002 WL 31085603 at *4-5; Dawavendewa, 276 F.3d at 1155; Shermoen, 982 F.2d at 1318.

B. Indispensable Party Test.

Generally, a necessary non-party will be joined as a party. However, if the necessary non-party cannot be joined as

a party, the Court must then determine whether the necessary non-party is also an indispensable party such that the action cannot proceed in the absence of the non-party and must be dismissed. Fed. R. Civ. P. 19(b). See American Greyhound, 2002 WL 31085603 at *7; Dawavendewa, 276 F.3d at 1161; Shermoen, 982 F.2d at 1318.

Rule 19(b) sets forth four factors the Court must consider to determine whether an action should be dismissed because a non-party is an indispensable party. See American Greyhound, 2002 WL 3108503 at *7; Dawavendewa, 276 F.3d at 1161; Shermoen, 982 F.2d at 1318. The four factors are as follows: (1) the prejudice to any party or the non-party; (2) whether relief can be constructed, by protective provisions in the judgment or other measures, to lessen or avoid prejudice; (3) whether an adequate, even if incomplete, remedy can be awarded without the non-party; (4) whether an alternative forum exists if the action is dismissed for nonjoinder. American Greyhound, 2002 WL 31085603 at *7; Dawavendewa, 276 F.3d at 1161-1162; Shermoen, 982 F.2d at 1318-1319. In matters concerning Native American Tribes, the fourth factor is, for the most part, disregarded. See American Greyhound, 2002 31085603 at *7 ("With regard to the fourth factor, however, we have regularly held that the tribal interest in immunity overcomes the lack of an alternative remedy or forum for the plaintiffs.")

3. Analysis.

a. The Tribe Is a Necessary Party.

i. In the Absence of the Tribe Plaintiffs Cannot Obtain Complete Relief.

Based on the relief sought in Plaintiffs' Complaint, the Court could not accord Plaintiffs complete relief in the absence of the Tribe. Plaintiffs' seek a declaration from the Court that:

1. "[T]he actions of the defendants in asserting tribal jurisdiction over the plaintiffs and the West Bank Lands are contrary to federal law and beyond CRIT's sovereignty," Complaint Prayer ¶A;

2. "[T]he Four Reservations Act [limiting the number of reservations in the State of California] precludes any expansion of the [CRIT] Reservation into the State of California," Complaint Prayer ¶ B; and

3. "[T]he 1865 Act [establishing the CRIT Reservation] precludes any expansion of the [CRIT] Reservation into the State of California," Complaint Prayer ¶ C.

In addition, Plaintiffs' seek an injunction from the Court prohibiting Defendants "from asserting that the CRIT reservation extends into the State of California and from undertaking any exercise of tribal reservation jurisdiction within California." Complaint Prayer ¶ D.

Although artfully pled, Plaintiffs' Complaint requires the Court to determine the boundaries of the CRIT reservation, or more specifically, to determine that the CRIT reservation does not include the West Bank Lands. Yet, only the eight named Defendants would be bound by a judgment of the Court. The Tribe could still assert its jurisdiction over the West Bank Lands and could still evict Plaintiffs from the West Bank Lands. Without naming the Tribe as a party, even if Plaintiffs obtained the relief they seek, they would not obtain complete relief since a judgment against these Defendants would not bind the Tribe. See Pit River Home & Agricultural Co-op. Association v. United States, 30 F.3d 1088, 1099 (9th Cir. 1994); Confederated Tribes of the Chehalis Indian Reservation v. Lujan, 928 F.2d 1496, 1498 (9th Cir. 1991).

ii. Impairment of the Tribes Legally Protected Interest Is Certain.

The Tribe has a legally protected interest in whether the West Bank Lands are reservation lands. See Pit River Home, 30 F.3d at 1099 ("the [Tribe] clearly has a legal interest in the litigation which would be impaired by the disposition of this action [to determine the beneficial owners of a piece of real property] without its presence"); Shermoen, 982 F.2d at 1317 ("absent tribes have an interest in preserving their own sovereign immunity, with its concomitant right not to have [their] legal duties judicially determined without consent.") (Internal quotations omitted).[4]

For more than 30 years the Tribe has operated under the assumption that the West Bank Lands are part of the CRIT reservation; an assumption, likewise relied upon by Plaintiffs and their predecessors in interest when they obtained use permits for parcels of land within the West Bank Lands. Without question the Tribe would have a legal interest in any judicial determination regarding the boundaries of the CRIT reservation.

Accordingly, based on either Rule 19(a)(1) or 19(a)(2)(i), the Court finds that the Tribe is a necessary party to this action.[5] As a result, the Court must now determine whether the Tribe can be joined as a party.

b. The Tribe Cannot Be Joined as a Party

"Federally recognized Indian tribes enjoy sovereign immunity from suit and may not be sued absent an express and

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[4] Moreover, in Shermoen, the Ninth Circuit found that satisfaction of this factor required no more than the non-party have a "claimed" interest. Shermoen, 982 F.2d at 1317.

[5] Because the Tribe is a necessary party under either Rule 19(a)(1) or 19(a)(2)(i), the Court need not consider the test under Rule 19(a)(2)(ii); whether the Tribe's absence could subject the parties to a substantial risk of multiple or inconsistent obligations.

unequivocal waiver of immunity by the tribe or abrogation of tribal immunity by Congress." Dawavendewa, 276 F.3d at 1159. See also Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 498 U.S. 505, 509 (1991) ("Indian tribes are 'domestic dependent nations' that exercise inherent sovereign authority over their members and territories. Suits against tribes are thus barred by sovereign immunity absent a clear waiver by the tribe or congressional abrogation.")

The Tribe has not waived its immunity and there has been no Congressional abrogation of Tribal immunity as to disputes over the boundaries of reservation land. See e.g., 28 U.S.C. § 2409a(a). Therefore, the Tribe cannot be joined as a party to this action. See American Greyhound Racing, Inc., 2002 WL 31085603 at *9; Dawavendewa, 276 F.3d at 1159; Shermoen, 982 F.2d at 1318.

c. The Tribe Is an Indispensable Party.

i. The Tribe Will Be Prejudiced If Not Joined As A Party.

The first factor to consider in determining whether the Tribe is an indispensable party, is whether the Tribe will be prejudiced if not joined as a party in this action. Fed. R. Civ. P. 19(b). This analysis duplicates, in large part, the foregoing analysis as to whether the Tribe is a necessary party under Rule 19(a). See American Greyhound, 2002 WL 31085603 at *7; Dawavendewa, 276 F.3d at 1162.[6]

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[6] The Ninth Circuit, along with several other Circuits, has noted that if the necessary party enjoys sovereign immunity from suit, there may be little need to consider the Rule 19(b) factors "because immunity itself may be viewed as 'one of those interests compelling by themselves,' which requires dismissing the suit." Dawavendewa, 276 F.3d at 1162 (internal citations omitted). However, the Ninth Circuit continues to engage in the

If the Court granted Plaintiffs the requested relief, namely a declaration that the West Bank Lands are not within the CRIT reservation, the Tribe's interest in maintaining and protecting reservation land would be seriously prejudiced. See Wildman v. United States, 827 F.2d 1306, 1309 (9th Cir. 1987) (the land "held in trust by the United States for the Indians [is] the tribes' 'single most important economic resource'. ... The land is the essential base of tribal culture, development and society.")

ii. There Is No Means By Which To Avoid Prejudice to the Tribe.

The second factor to consider in determining indispensability is whether relief can be constructed to lessen or avoid prejudice. Fed. R. Civ. P. 19(b). The Court cannot provide Plaintiffs the relief they seek without enormous prejudice to the Tribe. Plaintiffs seek a judgment from this Court determining the boundaries of the CRIT reservation, or more specifically, determining that the boundary of the CRIT reservation does not extend into the State of California. Under the circumstances, it is impossible for the Court to fashion a remedy that would not be prejudicial to the non-party Tribe. See Dawavendewa, 276 F.3d at 1162.

iii. There Is No Means By Which To Avoid Prejudice to the Tribe.

The second factor to consider in determining indispensability is whether relief can be constructed to lessen or avoid prejudice. Fed. R. Civ. P. 19(b). The Court cannot provide Plaintiffs the relief they seek without enormous prejudice to the Tribe. Plaintiffs seek a judgment from this Court determining the boundaries of the CRIT reservation, or more specifically, determining that the boundary of the CRIT

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four factor analysis. American Greyhound, 2002 WL 31085603 ay *7.

reservation does not extend into the State of California. Under the circumstances, it is impossible for the Court to fashion a remedy that would not be prejudicial to the non-party Tribe. See Dawavendewa, 276 F.3d at 1162.

iii. In the Absence of The Tribe, No Adequate Remedy Can be Awarded.

The third factor to consider is whether a judgment rendered in this action, without the Tribe as a named party, will provide Plaintiffs with an adequate remedy. Fed. R. Civ. P. 19(b). As explained above, any judgment entered for Plaintiffs declaring that the West Bank Lands are not within the Tribe's sovereignty and enjoining the exercise of Tribal jurisdiction within California, would not be enforceable against the Tribe. As a result, for all practical purposes, such a judgment would not provide Plaintiffs with the relief requested because the Tribe itself would not be prohibited from exercising jurisdiction over the West Bank Lands and evicting Plaintiffs. See Dawavendewa, 276 F.3d at 1162.

iv. The Absence of an Alternative Forum Cannot Overcome Tribal Sovereign Immunity.

As noted above, when Tribal sovereign immunity is at issue, the fourth factor under Rule 19(b), the absence of an alternative forum, is rendered all but moot. See American Greyhound, 2002 WL 31085603 at *7. Although Plaintiffs will not have an alternative judicial forum from which to seek relief, there may be both an administrative and a political process by which Plaintiffs can obtain the relief they seek.[7]

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[7] For example, one of the Plaintiffs in this action has already appealed the Tribe's termination of his use permit to the Department of Interior Board of Indian Appeals, which overturned the decision of the Regional Director of the Bureau of Indian Affairs. Defendants' Motion p. 7

In applying the four factors, the Court concludes that the Tribe is an indispensable party that cannot be joined in this action. Therefore, pursuant to Rule 19(b) Plaintiffs' case must be dismissed.

4. The United States Is Also a Necessary and Indispensable Party.

The same analysis requires the Court to hold that the United States, which holds the West Bank Lands in trust for the Tribe, is also a necessary and indispensable party. In addition, it has long been held that "[t]he United States is an indispensable party to any suit brought to establish an interest in Indian trust land." Imperial Granite Company v. Pala Band of Mission Indians, 940 F.2d 1269, 1272 (9th Cir. 1991). Moreover, although the United States has consented to be sued in actions to quiet title in most public lands, it has expressly excluded Indian trust lands from that waiver of immunity. 28 U.S.C. §2409a(a).

5. Amendment Would Not Save Plaintiffs Complaint.

Ordinarily the Court would provide Plaintiffs an opportunity to amend their Complaint. See Chang v. Chen, 80 F.3d 1293, 1296 (9th Cir. 1966). However, Plaintiffs will not be able to cure this defect, because the relief they seek requires the Court to determine the boundaries of the CRIT reservation without naming the United States or the Tribe, the legal and beneficial owners of the land. Where amendment would be futile, the Court may deny leave to amend. See DeSoto v. Yellow Freight Systems, Inc., 957 F.2d 655, 658 (9th Cir. 1992).[8]

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[8] Plaintiffs' counsel agreed at oral argument that leave to amend would be futile.

6. Conclusion.

Based on the foregoing the Court finds that the Tribe and the United States are necessary and indispensable parties that cannot be joined in this action. In addition, the Court finds that providing Plaintiffs with leave to amend would be futile because there is no possibility that Plaintiffs could state a claim for relief. See Shermoen, 982 F.2d at 1319 (in denying the Plaintiffs' Motion to Amend, the lower court found that, "there is no possibility [that Plaintiffs could] stat[e] a cause of action [which required the Court to] tak[e] away something over which the tribes have sovereign immunity.") Therefore, the Court GRANTS with prejudice Defendants' Motion to Dismiss Plaintiffs' Complaint.

IT IS SO ORDERED.

APPENDIX C

United States Court of Appeals for the Ninth Circuit

No. 02-56782
D.C. No. CV-02-04783-JFW

CALVERT TURLEY, DELORES TURLEY, JOSEPH WHANN, NANCY WHANN, GREGORY GATES, DEBORAH GATES, and ROBERT THWEATT,

Plaintiffs-Appellants,
v.

DANIEL EDDY, JR., an individual in his official capacity of Chairman of the Tribal Council for the Colorado River Indian Tribes; RUSSELL WELSH, an individual in his official capacity of Vice-Chairman of the Colorado River Indian Tribes; SONIA STONE, an individual in her official capacity as Council Member for the Colorado River Indian Tribes; HERMAN "TJ" LAFFOON, an individual in his official capacity as Council Member for the Colorado River Indian Tribes; SONIA CHAVEZ, an individual in her official capacity as Council Member for the Colorado River Indian Tribes; DOREEN WELSH, an individual in her official capacity as Council Member for the Colorado River Indian Tribes; VALERIE WELSH-TAHBO, an individual in her official capacity as Council Member for the Colorado River Indian Tribes;
DENNIS PATCH, an individual in his official capacity as Council Member for the Colorado River Indian Tribes; and CRAIG CHUTE, an individual,

Defendants-Appellees.

Before: SILVERMAN, W. FLETCHER, and RAWLINSON, Circuit Judges.

ORDER

The panel has voted to deny the petition for rehearing and to deny the petition for rehearing en banc, filed July 30, 2003.

The full court has been advised of the petition for en banc rehearing, and no judge of the court has requested a vote on the petition for rehearing en banc. Fed. R. App. P. 35(b).

The petition for rehearing and the petition for rehearing en banc are DENIED.

APPENDIX D

Quiet Title Act, 28 U.S.C. § 2409a

§ 2409a. Real Property Quiet Title Actions.

(a) The United States may be named as a party defendant in a civil action under this section to adjudicate a disputed title to real property in which the United States claims an interest, other than a security interest or water rights. This section does not apply to trust or restricted Indian lands, nor does it apply to or affect actions which may be or could have been brought under sections 1346, 1347, 1491, or 2410 of this title, sections 7424, 7425, or 7426 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 7424, 7425, and 7426), or section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

APPENDIX E

California Indian Reservation Act of April 8, 1864,
13 Stat. 39

CHAP. XLVIII. – *An Act to provide for the better Organization of Indian Affairs in California.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the first day of April, anno Domini eighteen hundred and sixty-four, the state of California shall, for Indian purposes, constitute one superintendency, for which there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, a superintendent of Indian affairs for said superintendency, at a salary of three thousand six hundred dollars per annum, who shall reside at a point within said state, to be selected by the Secretary of the Interior, and who, upon executing a bond, upon such terms and such sum as may be prescribed by the Secretary of the Interior, and taking the usual oath of office, shall have under his control and management, in like manner and subject to like rules and regulations as are prescribed for superintendents of other superintendencies, the Indians and Indian reservations that are or may hereafter be established in said state: *Provided,* That the superintendent shall be authorized to appoint a clerk, at a compensation not to exceed eighteen hundred dollars per annum.

SEC. 2. *And be it further enacted,* That there shall be set apart by the President, and at his discretion, not exceeding four tracts of land, within the limits of said state, to be retained by the United States for the purposes of Indian reservations, which shall be of suitable extent for the accommodation of the Indians of said state, and shall be located as remote from white settlements as may be found practicable, having due regard to their adaptation to the

purposes for which they are intended: *Provided,* That at lease one of said tracts shall be located in what has heretofore been known as the northern district: *And provided, further,* That if it shall be found impracticable to establish the reservations herein contemplated without embracing improvements made within their limits by white persons lawfully there, the Secretary of the Interior is hereby authorized and empowered to contract for the purpose of such improvements, at a price not exceeding a fair valuation thereof, to be made under his direction. But no such contract shall be valid, nor any money paid thereon, until, upon a report of said contract and of said valuation to Congress, the same shall be approved and the money appropriated by law for that purpose: *And provided, further,* That said tracts to be set apart as aforesaid may, or may not, as in the discretion of the President may be deemed for the best interests of the Indians to be provided for, include any of the Indian reservations heretofore set apart in said state, and that in case any such reservation is so included, the same may be enlarged to such an extent as in the opinion of the President may be necessary, in order to its complete adaptation to the purposes for which it is intended.

SEC. 3. *And be it further enacted,* That the several Indian reservations in California which shall not be retained for the purposes of Indian reservations under the provisions of the preceding section of this act, shall, by the commissioner of the general land-office, under the direction of the Secretary of the Interior, be surveyed into lots or parcels of suitable size, and as far as practicable in conformity to the surveys of the public lands, which said lots shall, under his direction, be appraised by disinterested persons at their cash value, and shall thereupon, after due advertisement, as now provided by law in case of other public lands, be offered for sale at public outcry, and thence afterward shall be held subject to sale at private entry, according to such regulations as the Secretary of the Interior may prescribe: *Provided,* That no lot shall be disposed of at less than the appraised value, nor at less than one dollar and twenty-five cents

per acre: *And provided, further,* That said sale shall be conducted by the register and received of the land-office in the district in which such reservation or reservations may be situated, in accordance with the instructions of the department regulating the sale of public lands.

SEC. 4. *And be it further enacted,* That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint an Indian agent for each of the reservations which shall be established under the provisions of this act, which said agent shall reside upon the reservation for which he shall be appointed, and shall discharge all the duties now or hereafter to be required of Indian agents by law, or by rules and regulations adopted, or to be adopted, for the regulation of the Indian service, so far as the same may be applicable. Each of the agents appointed as aforesaid shall, before entering upon the duties of his office, give bond in such penalties and with such conditions and such security as the President or Secretary of the Interior may require, and shall hold his office for the term of four years, unless sooner removed by the President, and shall receive an annual salary at the rate of eighteen hundred dollars.

SEC. 5. *And be it further enacted,* That there may be appointed, in the manner prescribed by law, for each of said reservations, if in the opinion of the Secretary of the Interior the welfare of said Indians shall require it, one physician, one blacksmith, one assistant blacksmith, one farmer, and one carpenter, who shall each receive compensation at rates to be determined by the Secretary of the Interior, not exceeding fifty dollars per month.

SEC. 6. *And be it further enacted,* That hereafter, when it shall become necessary to survey any Indian or other reservations, or any lands, the same shall be surveyed under the direction and control of the general land-office, and as nearly as may be in conformity to the rules and regulations under which other

public lands are surveyed.

SEC. 7. *And be it further enacted,* That all Indian agents shall reside at their respective agencies, and shall in no case be permitted to visit the city of Washington except when ordered to do so by the commissioner of Indian affairs. And it is hereby made the duty of said commissioner to report all cases of the violation of this section to the President, with the request that the agents disregarding the provisions herein contained be at once removed from office.

SEC. 8. *And be it further enacted,* That all acts or parts of acts in conflict with the provisions of this act, be, and the same are hereby, repealed; and all offices and employments connected with Indian affairs in California not provided for in this act be, and the same are hereby, abolished.

APPROVED, April 8, 1864.

APPENDIX F

Colorado River Reservation Act of March 3, 1865,
13 Stat. 541, 559

CHAP. CXXVII. – *An Act making Appropriations for the current and contingent expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes for the Year ending thirtieh June, eighteen hundred and sixty-six, and for other Purposes.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department and fulfilling treaty stipulations with the various Indian tribes: –

* * *

Indian Service in the Territory of Arizona. – For the general incidental expenses of the Indian service in the Territory of Arizona, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

All that part of the public domain in the Territory of Arizona, lying west of a direct line from Half-Way Bend to Corner Rock on the Colorado River, containing about seventy-five thousand acres of land, shall be set apart for an Indian reservation for the Indians of said river and its tributaries.

To supply deficiencies in the Indian service in Arizona Territory, twelve thousand nine hundred dollars for the present fiscal year.

APPENDIX G

Act of April 30, 1964, 78 Stat. 188

Public Law 88-302

AN ACT

To fix the beneficial ownership of the Colorado River Indian Reservation located in the States of Arizona and California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of fixing the beneficial ownership of real property interests in the Colorado River Reservation now occupied by the Colorado River Indian Tribes, its members, and certain Indian colonists, all right, title, and interest of the United States in the unallotted lands of the Colorado River Reservation, including water rights and mineral rights therein, together with all improvements located thereon and appurtenant thereto, except improvements placed on the land by assignees or by Indian colonists, and except improvements furnished by the United States for administrative purposes (including irrigation facilities) or for the housing of Federal employees, are hereby declared to be tribal property held in trust by the United States for the use and benefit of the Colorado River Indian Tribes of the Colorado River Reservation.

SEC. 2. For the purpose of this Act:

(a) "Tribes" means the Colorado River Indian Tribes of the Colorado River Reservation, with a constitution adopted pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as said constitution now exists or may hereafter be amended, consisting of a band of the Mohave Indians,

the band of Chemehuevi Indians affiliated therewith, and various Indians heretofore or hereafter adopted by the Colorado River Indian Tribes.

(b) "Colorado River Reservation" means the reservation for Indian use established by the Act of March 3, 1865 (13 Stat. 559), as modified and further defined by the Executive orders of November 22, 1873, November 16, 1874, May 15, 1876, and November 22, 1915, all of which area shall be deemed to constitute said reservation.

SEC. 3. Any person of Indian blood, his spouse of Indian blood (excluding persons whose Indian blood is traceable solely to Indian tribes, bands, or groups not resident in or subject to the jurisdiction of the United States), and any dependent child of either or both of them, who is not a member of the tribes on the date of this Act, and who has settled on irrigated lands of the Colorado River Reservation through application for a settler's land permit and who is still holding such lands by virtue of the authority of a temporary land use permit issued by or under the authority of the tribes or the Federal Government, shall be deemed to be adopted by the tribes if within two years from the date of this Act he files with the tribal council a statement accepting membership in the tribes and renouncing membership in any other tribe, band, or group. Such statement may be filed on behalf of a dependent child by either parent or by a person standing in loco parentis.

SEC. 4. This Act shall become effective upon the agreement of the tribes to abandon the claims now pending in docket numbered 185 and in docket numbered 283A before the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049), and the dismissal of said claims by the Indian Claims Commission. Nothing in this Act shall affect or be taken into consideration in the adjudication of, or with respect to, any other claims now pending by the tribes against the United States.

SEC. 5. The Act of June 11, 1960 (74 Stat. 199), as amended by the Act of September 5, 1962 (76 Stat. 429), is amended to read as follows:

"The Secretary of the Interior is authorized to approve leases of lands on the Colorado River Reservation, Arizona and California, for such uses and terms as are authorized by the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a et seq.), and the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415 et seq.), including the same uses and terms as are permitted thereby on the Agua Caliente (Palm Springs), Dania, Navajo and Southern Ute Reservations: *Provided, however,* That the authorization herein granted to the Secretary of the Interior shall not extend to any lands lying west of the present course of the Colorado River and south of section 25 of township 2 south, range 23 east, San Bernardino base and meridian in California, and shall not be construed to affect the resolution of any controversy over the location of the boundary of the Colorado River Reservation: *Provided further,* That any of the described lands in California shall be subject to the provisions of this Act when and if determined to be within the reservation."

Approved April 30, 1964.